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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/204,523	12/03/1998	ANDREW FRANSMAN	97-823	5617

32127 7590 07/25/2003

VERIZON CORPORATE SERVICES GROUP INC.  
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600 HIDDEN RIDGE DRIVE  
MAILCODE HQEO3HO1  
IRVING, TX 75038

EXAMINER

BROWN, RUEBEN M

ART UNIT	PAPER NUMBER
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2611

DATE MAILED: 07/25/2003

26

Please find below and/or attached an Office communication concerning this application or proceeding.

26

**Advisory Action**

Application No.

09/204,523

Applicant(s)

FRANSMAN ET AL.

Examiner

Reuben M. Brown

Art Unit

2611

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 09 June 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b) ☐ they raise the issue of new matter (see Note below);
  - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See enclosed Advisory Action.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_

Claim(s) objected to: \_\_\_\_\_

Claim(s) rejected: \_\_\_\_\_

Claim(s) withdrawn from consideration: \_\_\_\_\_

8. ☐ The proposed drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_
10. ☐ Other: \_\_\_\_\_

  
CHRIS GRANT  
PRIMARY EXAMINER

**ADVISORY ACTION**

***Response to Arguments***

1. Applicant's arguments filed 6/9/2003 have been fully considered but they are not persuasive. Applicant arguments from pages 1-4 are a repeat of arguments presented in the most previous Response, filed 7/8/2002, as Paper #20. Examiner maintains the same line of reasoning for those arguments. However, in the second paragraph on Page 4, applicant does introduce a different assertion. In particular, it is asserted that since the Ritchie reference discloses the testing of a modulator at the headend, the instant reference does not disclose or suggest the claimed, test channel dedicated solely to testing a selected asset, where the assets include video content scheduled for staggered transmission to subscribers in a NVOD system. Examiner respectfully disagrees with applicant's conclusion. As pointed out in the Final Office Action, Clark is directed to a NVOD system and teaches testing the server asset, but does not discuss a dedicated test channel. The DTM 804 of Ritchie does correspond with the server assets discussed in Clark, since they are both transmitters and therefore the combination reads on the claimed subject matter.

Applicant also argues that the cited portions of Ritchie; col. 26, lines 1-20 & col. 27, lines 12-25, do not teach the feature of a test channel dedicated solely to testing a selected asset. Again, examiner respectfully disagrees with applicant. It is pointed out that the DTM 804 represents a selected asset, which includes video content scheduled for transmission to

Art Unit: 2611

subscribers. Specifically, col. 27, lines 14-16 states, “the main RF output 818 is used by the DTM 804 for transmitting downstream signals to the CIU’s 400 via the CATV network 12”. Furthermore, col. 27, lines 16-18 states, “whereas the test output 820 is used for transmitting downstream test signals for reception by the TCM 800”. Next, the test signals from the multiple DTM 804 are combined in combiner 808 and delivered to the test control module TCM 800, via the downstream test link 810; see col. 26, lines 40-50. Thus it is clear from the Specification of Ritchie and Fig. 13, that the reference discloses the claimed feature of using “a test channel dedicated solely to testing a selected asset, where the selected asset includes video content”.

The remaining arguments concerning claim 1, generally re-states points that have been mentioned in the 7/8/2002 Response, and examiner maintains the arguments set forth in the Final Office Action.

With respect to applicant’s discussion on pages 14-15, regarding the rejection of claims 4-8, using the Gardner reference, it is argued that Gardner does not disclose a head-end configuration manager that tracks configuration parameters of a head-end of a NVOD. Examiner points out that the discussion on col. 5, lines 21-40, clearly reads on the claimed subject matter, because it is disclosed that in a VOD system, different multiple isochronous video streams must be provided in varying configurations. Again, the tracking of parameters and varying configurations discussed in Gardner are relevant in the NVOD system of Clark. Also see col. 13, lines 42-55, which further discusses the tracking of bandwidth available parameter of the servers, and using this information in making bandwidth available, to the other servers.

Art Unit: 2611

**2. Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks  
Washington, D.C. 20231

**or faxed to:**

(703) 872-9314, (for formal communications intended for entry)

**Or:**

(703) 872-9314 (for informal or draft communications, please label  
"PROPOSED" or "DRAFT")


*Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive,  
Arlington, VA., Sixth Floor (Receptionist).*

Any inquiry concerning this communication or earlier communications from the  
examiner should be directed to Reuben M. Brown whose telephone number is (703) 305-2399.  
The examiner can normally be reached on M-F (8:30-6:00), First Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's  
supervisor, Andrew I. Faile can be reached on (703) 305-4380. The fax phone numbers for the  
organization where this application or proceeding is assigned is (703) 872-9314 for regular  
communications and After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding  
should be directed to the receptionist whose telephone number is (703) 305-4700.

Reuben M. Brown

  
CHRIS GRANT  
PRIMARY EXAMINER